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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/023,556 02/13/98 KOTOB

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MM91/0615

EXAMINER

FRANKLIN, J

ART UNIT

PAPER NUMBER

2876

DATE MAILED:

06/15/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/023,556

Applicant(s)

Kotob et al

Examiner

Jamara Franklin

Group Art Unit

2876



☒ Responsive to communication(s) filed on Apr 6, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-23 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-23 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Feb 13, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

Acknowledgment is made of the receipt of the amendment filed on 4/6/00.

### *Claim Objections*

1. Claim 5 is objected to because of the following informalities:

on line 2 of claim 5, "---is a fixed to---" should be replaced with "---is affixed to---".

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

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and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3, 5-7, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wise et al. (US 5,218,528) in view of Webb (US 4,774,665) and in further view of Davis, III et al (US 5,583,329).

Wise et al. disclose a plurality of connected automated voting devices each consisting of a monitor for displaying ballots and election information (fig. 4), a means for counting votes (col. 6, lines 32-33), a means of allowing a voter to write in a vote and then recording write in votes (col. 8, lines 26-32 and col. 11, lines 44-56), multiple locals for storing counted votes (mass storage device 43 and vote collection database 14), and a means of letting a voter void his/her ballot before casting the vote (col. 9, lines 8-13). After the voting process, a code (allowing voting stations 12 to be operable) is then abandoned and the voting station 12 is inactivated until a new activation code is received (col. 8, lines 27-32). The vote entry controller 11 includes a mass storage device 43 where it tallies and records the number of votes collected at each vote entry station. It is also in data communication 36 with vote collection database 14 where a total vote count is stored (col. 6, lines 29-33 and col. 4, lines 6-8).

Regarding claim 10, as broadly set forth in this claim, the act of a voter placing his/her vote serves as a confirmation that the selection of ballot made by the poll watchers is correct. A

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process is also disclosed where a voter may choose the language in which the ballot is received and instructions are given (fig. 5A and fig. 5B). With respect to claim 9, while only two languages are illustrated, obviously, the selection may consist of more than two languages to accommodate people of various cultural backgrounds. The modification would have represented an obvious design expedient.

Wise et al. do not show an automated voting device utilizing either a touch screen (a graphical user interface) for displaying or a printer for printing counted votes.

Regarding security aspects, not disclosed is an internal password (provided by the election authority) or external security check operation, an identifying label or tag affixed to the voting device, or a way to test the accuracy of the voting station prior to or after the election.

Webb teaches an electronic computerized voting apparatus that permits testing of the computerized operations before and after the election has taken place (col. 4, lines 55-63), and displays information concerning the election (which may include counted votes) on the display screen 48 (col. 5, lines 17-19) and on printout paper from the line printer 50 (col. 5, lines 22-30). Concerning security checks, there is described the practice of inserting an external device into the voting device to activate the system (col. 4, line 66- col. 5, line 17) and the practice of applying an identifying label onto the actual voting device (col. 3, line 68- col. 4, line 2). Webb lacks the discussion of a touch screen triggered by the act of pointing to and touching the screen.

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Davis, III et al. describe a computerized electronic voting system which includes a voting terminal consisting of a touch screen display (the only interface between the voter and the voting terminal) which displays election information (col. 4, lines 30-31 and fig 2).

An automated, computerized voting device featuring ample storage space and display options for counted votes, various security checks, and several voter preferences (including language and ballot style) is beneficial whereas a voter may conveniently and safely cast a vote that will be well guarded and prospectively free of tampering from any outside force. Employing a touch screen display is an obvious alternative to a regular monitor and keyboard because it is a more modern of techniques in which to input data securely into a voting terminal. For these reasons set forth, it would have been obvious to someone of ordinary skill in the art to combine the teachings of the preceding inventors.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wise et al./Webb/Davis, III et al. as applied to claim 2 above, and further in view of Lohry et al (U.S. 5,758,325). Wise et al./Webb/Davis, III et al. have been discussed above.

There is no teaching of a security operation involving entry of a password.

Lohry et al. teach such a password entry in an electronic voting system (col. 2, lines 43-48 and col.4, lines 8-12). Since one of ordinary skill would have recognized the benefits of password protection to ensure the integrity of the voting system, it would have been obvious to provide

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Wise et al./Webb/Davis, III et al. with the password security as taught by Lohry et al.

5. Claims 8, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wise et al./Webb/Davis, III et al. as applied to claim 1 above, and further in view of Katayama et al (US 6,073,054). The teachings of Wise et al./Webb/Davis, III et al. have been discussed above.

Wise et al./Webb/Davis, III et al. fail to teach one of a plurality of voting stations controlling all the other voting stations.

Katayama et al. teach an information processing system comprising a supervising information processing system 1 and one or more subsystems 3. In operation, the supervising system 1 directs the plurality of subsystems 3. One of ordinary skill in the art would have readily recognized that having one vote processing system control all other vote processing systems is beneficial, as opposed to having two separate units, since the controlling system is merged into the voting station, thereby taking up less space and consuming less power. Therefore, it would have been obvious at the time the invention was made to modify the teachings of Wise et al./Webb/Davis, III et al. with the master-slave system as taught by Katayama et al.

6. Claims 14-17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wise et al. in view of Webb.

Wise et al. disclose a voting system which performs the tasks of registering and certifying voters and collecting their votes. Here, Wise et al. teach steps including the activation of the

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individual vote entry station 12 upon receiving an activation code (col. 8, lines 27-29), the authorization by code for voter activation of a ballot (col.3, lines 41-44 and col. 6, lines 40-43), the displaying of ballot information on display screens 62 located within individual vote entry stations and permitting a voter to enter votes at one of the individual stations (col. 8, lines 60-62), the inactivation of the individual vote entry station 12 to prohibit further voting (col. 8, lines 29-32), and the interconnection of a plurality of vote entry stations 12 via communication links 15 (fig 1).

However, Wise et al. fail to teach the steps of testing for pre-election and post-election program accuracy, recording and tabulating votes within the vote entry station 12, and printing recorded election information on a related printer within the vote entry station 12.

Webb discloses a computerized vote-counting apparatus to be used at a precinct workstation 10 (fig. 1) that electronically records, counts, and stores votes cast by voters within that workstation 10 during an election. Webb teaches the steps of conducting an audit of the election at the start and end of the election, if required (col. 4, lines 55-63), and transferring election related information to a printer and printing out that information (col. 5, lines 22-30). One of ordinary skill in the art would have seen that combining the steps noted in Wise et al.'s invention with the security and information recording techniques noted in Webb's disclosure would provide for a method of using an automated voting device that is a modern alternative to casting ballots at an election while supplying added and needed security measures (including pre- and post- election tests) and information recording measures (including recording votes in the



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voting station and printing out that information from a printer) to prevent possibly election tampering, therefore it would have been obvious to one of ordinary skill in the art to combine the teachings of Webb into the voting system of Wise et al.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wise et al./Webb as applied to claim 14 above, and further in view of Graft, III (US 5,278,753). The teachings of Wise et al./Webb are disclosed above.

Neither of the two shows a method of inactivating the voting station.

Graft, III teaches a lock 32 to be fastened using a key which is only available by precinct officials (col. 6, lines 24-28). When locked, the machine would be inherently inactive. One of ordinary skill in the art can recognize that by merging the lock 32 taught by Graft, III and the teachings of Wise et al./Webb regarding claim 14, a voting station may be further protected against unauthorized access, therefore it would have been obvious to combine the teachings.

8. Claims 22 and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Wise et al./Webb as applied to claim 14 above, and further in view of Katayama et al. The teachings of Wise et al./Webb have been discussed above.

Wise et al./Webb fail to teach one of a plurality of voting stations controlling all the other voting stations.

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The teachings of Katayama et al. have been discussed above. Once again, one of ordinary skill in the art would have readily recognized that having one vote processing system control all other vote processing systems is beneficial, as opposed to having two separate units, since the controlling system is merged into the voting station, thereby taking up less space and consuming less power. Therefore, it would have been obvious at the time the invention was made to modify the teachings of Wise et al./Webb with the master-slave system as taught by Katayama et al.

#### *Response to Arguments*

9. Applicant's arguments filed 4/6/00 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., removing the possibility of central failure by allowing one of the vote entry stations to behave as a vote entry controller ) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that the invention is physically different, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of

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the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

10. Applicant's arguments with respect to claims 8, 12, 13, 22, and 23 have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Peralto (US 5,878,399) teaches a computerized voting system for positive identification of voters to prevent duplicate or fraudulent voting. Miyagawa et al. (US 5,732,222) teach a computer terminal apparatus used for voting and totaling the votes cast in an election.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara Franklin whose telephone number is (703) 305-0128 and email address is jamara.franklin@uspto.gov. The examiner can normally be reached on Monday to Friday from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Hajec, can be reached on (703) 308-4075. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3594.


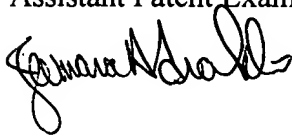
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

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